

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

Court Minutes and Order

HEARING DATE: 11/18/2020
JUDGE: Brett H. Ludwig
CASE NO.: 18-cv-1839 -bhl
CASE NAME: Delices v. Board of Regents et al
MATTER: Status Conference
APPEARANCES: Patrick Delices, *Pro se* Plaintiff
Jeffery A Simcox, Attorney for Defendant
TIME: 10:02 a.m. – 10:54 a.m.
COURTROOM DEPUTY: Melissa P.

AUDIO OF THIS HEARING IS AT ECF NO. 44

The parties reported on the status of the case and their opinions as to how the case should proceed. The Court ruled on three pending motions: (1) plaintiff's motion to appoint counsel (ECF No. 39), (2) plaintiff's motions to strike, (ECF Nos. 28, 30) and (3) defendant's motion to dismiss/motion for a more definite statement, (ECF No. 25). The Court will issue a separate scheduling order adopting the deadlines proposed during the hearing. The Court reminded and encouraged the parties to try to settle their disputes.

Plaintiff's Motion to Appoint Counsel

The Court explained to plaintiff that he does not have the right to have counsel appointed to represent him in this civil case. At best, the Court has the power to request or recruit a private lawyer to represent the plaintiff on a pro bono basis, but only if certain conditions are satisfied. The Court found that plaintiff has made efforts to hire counsel himself, but that, given the plaintiff's education level and the complexity of the issues, the plaintiff appears competent to handle this case. Accordingly, the Court will deny plaintiff's motion to appoint counsel. The Court encouraged the plaintiff to continue his efforts to retain a lawyer to represent him.

Plaintiff's Motion to Strike

Because the Court previously granted the defendants' motion for an extension of time, (ECF Nos. 37, 38), the Court will deny as moot plaintiff's motions to strike. Defendants' answer, (ECF No. 24), and motion to dismiss, (ECF No. 25), are deemed timely filed and served.

Defendants' Motions to Dismiss and/or For a More Definite Statement

Counsel for defendants confirmed they do not seek the dismissal of Counts 1-3 and consider those counts properly plead against the University of Wisconsin Board of Regents. The Court agreed with defendant that University of Wisconsin – Milwaukee is not an entity subject to suit under Wisconsin Law and therefore granted defendants' motion to dismiss all claims asserted against the University of Wisconsin – Milwaukee. *See Griffin v. UW System Board of*

Regents, 2019 WL 5218980, at *2 (W.D. Wis. 2019). The Court also agreed with the defendants that Title VI of the Civil Rights Act does not provide for relief against individuals, and therefore granted the motion to dismiss all claims under Title VI against individual defendants. The Court ruled that it would read the *pro se* plaintiff's complaint broadly, *see Perez v. Fenoglio*, 792 F.3d 768, 776 (7th Cir. 2015) (citing *Arnett v. Webster*, 658 F.3d 742, 751 (7th Cir. 2011)), and allow him to continue Counts 4-7 as claims against the University of Wisconsin Board of Regents, which is a proper defendant. Finally, the Court ruled that defendants are entitled to a more definite and concise statement of plaintiff's claims in counts 8-14. As to those claims, if the plaintiff wishes to pursue them, he must file a more concise complaint and specifically allege how any particular defendant violated his rights under the legal theory presented under each such count. Plaintiff has until January 4, 2021 to file an amended complaint. Plaintiff is under no obligation to file any amended pleading and if he does not the case will simply proceed on Counts 1-7 against the Board of Regents.

IT IS HEREBY ORDERED that, for the reasons stated on the record, plaintiff's motion to appoint counsel, (ECF No. 39), is **DENIED**.

IT IS FURTHER ORDERED that, for the reasons stated on the record, plaintiff's motion to strike and amended motion to strike, (ECF Nos. 28, 30), are **DENIED AS MOOT**.

IT IS FURTHER ORDERED that defendants' motion to dismiss, (ECF No. 25), is **GRANTED IN PART AND DENIED IN PART**. Specifically, for the reasons stated on the record, the Court **GRANTS** defendant's motion to dismiss the University of Wisconsin – Milwaukee as a defendant. The Court also **GRANTS** the defendant's motion to dismiss, in their individual capacities, Defendants Sommers, Wilson, Britz, and Gajdardziska-Josifovska. The Court also **GRANTS** the defendant's motion for a more definite statement regarding counts 8-14. The Court **DENIES** the defendant's motion to dismiss counts 4-7, and those claims remain pending against the Board of Regents.

IT IS FURTHER ORDERED that plaintiff must submit a more definite statement with respect to Counts 8-14 of his complaint by **January 4, 2021**. If plaintiff chooses not to submit a more definite statement with respect to Counts 8-14, the Court will dismiss those claims.

Dated at Milwaukee, Wisconsin on November 19, 2020.

s/ Brett H. Ludwig

BRETT H. LUDWIG
United States District Judge